

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	
	§	
JULIET HOMES, LP,	§	Case No. 07-36424-H1-7
	§	(Chapter 7)
Debtor	§	
	§	
	§	
IN RE:	§	
	§	
JULIET GP, LLC,	§	Case No. 07-36426-H1-7
	§	(Chapter 7)
Debtor	§	
	§	
	§	
IN RE:	§	
	§	
DOUGLAS A. BROWN,	§	Case No. 07-36422-H1-7
	§	(Chapter 7)
Debtor	§	
	§	

**TRUSTEES' MOTION FOR APPROVAL OF COMPROMISE AND SETTLEMENT
AGREEMENT BETWEEN TRUSTEES AND DEFENDANT THOMAS BOYD**

NOTICE PURSUANT TO LOCAL BANKRUPTCY RULE 9013(b)

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE MARVIN ISGUR, UNITED STATES BANKRUPTCY JUDGE:

COME NOW Joseph M. Hill, Trustee (“Juliet Trustee”) of the bankruptcy estates of Juliet Homes, LP and Juliet GP, LLC (“Juliet Debtors” or “Juliet”) and Janet S. Northrup, Trustee as Successor Trustee (“Brown Trustee”) of the bankruptcy estate of Douglas A. Brown (“Brown”), seeking approval to compromise and settle the Trustees’ claim against defendant Thomas Boyd, showing as follows:

I. RELIEF REQUESTED

1. Pursuant to Federal Rule of Bankruptcy Procedure 9019, the Juliet Trustee and Brown Trustee (collectively, “Trustees”) request approval of their settlement and compromise of controversy with Thomas Boyd. While Mr. Boyd has agreed to the proposed compromise, the factual recitations set forth herein are solely those of the Trustees and are not necessarily agreed to by Mr. Boyd.

II. PROCEDURAL BACKGROUND

2. On September 20, 2007, an involuntary petition for relief was filed under Chapter 7 of the United States Bankruptcy Code against each of the Juliet Debtors. On the same date, an involuntary petition for relief was filed under Chapter 7 of the United States Bankruptcy Code against Brown.

3. On October 19, 2007, the Juliet Debtors and Brown consented to the entry of an order for relief and converted their cases to Chapter 11. On October 31, 2007, the Bankruptcy Court entered Orders for Relief in the Juliet Debtors’ and Brown’s bankruptcy cases (together, the “Bankruptcy Cases”).

4. The Juliet Trustee was subsequently appointed as Chapter 11 Trustee. At the request of the Juliet Trustee, the Juliet Debtors’ cases were converted to Chapter 7 cases.

5. On December 5, 2007, Brown moved to convert his case to Chapter 7, and on December 19, 2007, the Bankruptcy Court converted Brown's case to Chapter 7. Thereafter, the Brown Trustee was appointed Successor Trustee of Brown's Chapter 7 estate.

6. Trustees commenced multiple Adversary Proceedings based on allegations that the Juliet Debtors and Brown were engaged in a Ponzi scheme in which certain investors and/or partners or other third parties received funds that Trustees are entitled to recover pursuant to federal and state law. These Adversary Proceedings include:

- Adv. No. 09-3429, Joseph M. Hill, Trustee et al. v. Alex Oria, et al.
- Adv. No. 09-3432, W. Steve Smith, Trustee et al. v. Douglas Allen Brown, et al.
- Adv. No. 09-3433, W. Steve Smith, Trustee et al. v. Douglas Allen Brown, et al.
- Adv. No. 09-3434, W. Steve Smith, Trustee et al. v. Douglas Allen Brown, et al.
- Adv. No. 09-3435, W. Steve Smith, Trustee et al. v. Eric Putnam, et al.
- Adv. No. 09-3436, W. Steve Smith, Trustee et al. v. Eric Putnam, et al.
- Adv. No. 09-3437, W. Steve Smith, Trustee et al. v. Eric Putnam, et al.
- Adv. No. 09-3438, W. Steve Smith, Trustee v. Lawrence H. Ramming, et al.
- Adv. No. 09-3439, W. Steve Smith, Trustee v. Lawrence H. Ramming, et al.
- Adv. No. 09-3440, W. Steve Smith, Trustee v. Lawrence H. Ramming, et al.
- Adv. No. 09-3441, Joseph M. Hill, Trustee et al. v. Alex Oria, et al.
- Adv. No. 09-3442, Joseph M. Hill, Trustee et al. v. Alex Oria, et al.
- Adv. No. 09-3443, Joseph M. Hill, Trustee et al. v. Alex Oria, et al.

(collectively, the "Adversary Proceedings").

7. Mr. Boyd is a named defendant in Adversary Proceedings 09-3429, 09-3441, and 09-3442, which have been consolidated into Adversary Proceeding 09-3429. In the consolidated proceedings, Trustees have sought to avoid a transfer in the amount of \$9,000 to Mr. Boyd made by Juliet Homes check dated July 16, 2004 with a notation indicating that the check was in payment of a liability of Brown (the "Boyd Avoidance Claim").

8. On December 18, 2013, Trustees moved for default judgment against Mr. Boyd based upon his failure to answer Trustees' complaints. Soon thereafter, counsel for Mr. Boyd contacted counsel for Trustees and stated that Mr. Boyd believed that he had never been served

with process and opposed entry of default judgment. In the interest of incurring significant fees to oppose the entry of default judgment and to answer the complaints, however, Mr. Boyd offered to resolve the dispute regarding Mr. Boyd's alleged default and to settle the Boyd Avoidance Claim by making a payment of \$2,500. Counsel for Trustee agreed to a two-week extension of time for Mr. Boyd to respond to the motion for default while the Trustees considered Mr. Boyd's offer.

9. For the reasons set forth below, Trustees have agreed to settle the Boyd Avoidance Claim for Mr. Boyd's payment of \$2,500, subject to this Court's approval.

10. On January 16, 2014, the Court granted the Trustees' motion for default judgment against multiple defendants, including Mr. Boyd, and entered final judgment against Mr. Boyd at Docket No. 483. As part of their settlement, Trustees also request that the Court vacate the final judgment against Mr. Boyd.

III. BASIS FOR THE SETTLEMENT

11. Trustees believe that their proposed settlement with Mr. Boyd satisfies the applicable factors of *Protective Committee For Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414 (1968) as follows:

- (a) Probability of success in litigation, with consideration given to the uncertainty in fact and in law. Trustees believe that Mr. Boyd was properly served and that they would prevail in a contest regarding whether service was timely and effective. Additionally, Trustees are confident that they can establish Mr. Boyd's receipt of the \$9,000. Mr. Boyd disputes that the transfer satisfies the requirements of the Texas and federal fraudulent conveyance statutes, claiming that the transfer was

for valid consideration. The Debtors' books and records unfortunately do not provide a great deal of information about the underlying transaction.

- (b) Complexity, expense and likely duration of litigation. The Boyd Avoidance Claim is the single transfer to Mr. Boyd identified in Trustees' complaints. Hundreds of transfers totaling more than \$5 million are also identified, and Trustees contemplate that the trial of the remaining matters may take more than 7 trial days. A hearing on whether Mr. Boyd was properly served and, if Trustees prevail on that issue, on whether the transfer to Mr. Boyd is avoidable would take at least several hours of courtroom time and many more hours of preparation by Trustees' counsel. In light of the amount of the transfer to Mr. Boyd (\$9,000), the fact that the transfer was made almost 10 years ago, and the state of the Debtors' books and records concerning the Boyd Avoidance Claim, settlement as proposed is in the best interests of the estates and in the interests of economy and justice.
- (c) Other factors relevant to a full and fair assessment of the wisdom of the proposed compromise. Mr. Boyd's settlement proposal satisfies more than 25 percent of the Trustees' claim and provides a benefit to the estates through the recovery of funds and the avoidance of expense. This settlement will also allow the Trustees to concentrate on prosecution of claim against other defendants and conserve resources.

IV. PRAYER

12. For all the reasons set forth above, Trustees believe that the proposed settlement of the Boyd Avoidance Claim is in the best interests of the estates and their creditors. Trustees respectfully request that the Court grant this motion and enter orders vacating the final judgment

against Mr. Boyd and approving the compromise. Trustees respectfully request all other relief to which they are justly entitled.

Date: January 30, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 30th day of January, 2014, a true and correct copy of this Motion was served by first class mail or ECF on (i) the United States Trustee, (ii) the IRS, (iii) the Chapter 7 Trustees, (iv) Debtors' counsel, (v) the 20 largest unsecured creditors of each Debtor, and (vi) all persons who filed notices of appearance, all of whom are identified on the attached list. Notice of the filing of this motion was served on all creditors as set forth more fully in the Notice filed contemporaneously with this Motion.

/s/ Susan H. Jacks

Susan H. Jacks

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